

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In The Matter of: )  
 )  
EN BANC HEARING: )  
 )  
CONSUMER ISSUES AND EDUCATION )  
 )

Room 856  
FCC Building  
1919 M Street, N.W.  
Washington, D.C.

Thursday,  
October 29, 1998

The parties met, pursuant to the notice, at  
1:12 p.m.

BEFORE: WILLIAM E. KENNARD  
Chairman

FEDERAL COMMISSIONERS AND STATE JOINT BOARD:

JULIA JOHNSON, Chairman  
SUSAN NESS, Commissioner  
LASKA SCHOENFELDER, Commissioner  
HAROLD FURCHGOTT-ROTH, Commissioner  
PATRICK M. WOODS III, Chairman  
MICHAEL POWELL, Commissioner  
MARTHA HOGERTY, Consumer Rep.  
GLORIA TRISTANI, Commissioner  
DAVID BAKER, Commissioner

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## PANEL 1:

MARK COOPER, Director of Research  
American Federation of America  
FRANK GUMPER, USAIC  
JOHN C. METTS, National Telephone  
Cooperative Association  
BILLY JACK GREGG, Director, Consumer  
Advocate Division, Public Service  
Commission of West Virginia

## PANEL 2:

MICHAEL TRAVIESCO, Counsel representing  
Maryland consumers  
MICHELE FARQUHAR, Western Wireless  
BILL GILLIS, NARUC  
JOEL LUBIN, AT&T  
DAVE GILLES, Wisconsin DOJ  
DOROTHY ATTWOOD, Common Carrier Bureau  
FCC

1                                    P R O C E E D I N G S

2                    CHAIRMAN KENNARD: Good afternoon, and welcome  
3 everybody to our En Banc Panel on Consumer Issues and  
4 Education. We have a very interesting and packed agenda for  
5 the afternoon, so I think we need to get started, and we're  
6 going to have to keep our schedule.

7                    We have our -- we have a timekeeper here, Ruth,  
8 are you going to do that for us today? Ruth Darcey is going  
9 to be our timekeeper and she is a very tough lady, so she's  
10 going to be enforcing our time deadlines strictly.

11                   I would like to welcome everyone here. We are  
12 going to have two panels today. The first panel will be on  
13 issues of affordability of basic telephone service.  
14 Obviously, this is a central goal of the FCC, and our  
15 colleagues in the states. It has been for many decades.  
16 And Congress, of course, reaffirmed that goal quite  
17 explicitly in the Telecommunications Act of 1996.

18                   We have been given the difficult task of  
19 implementing the extremely important Universal Service  
20 provisions in the 1996 Act. We are in the midst of that  
21 process. Commissioner Susan Ness and Chairman Julia Johnson  
22 have been co-chairing the Joint Board on Universal Service.  
23 They are -- they have a very busy November ahead. We're  
24 looking very much forward to the recommendations of the  
25 Joint Board.

1           The first panel will address these affordability  
2     issues. We will have a second panel on consumer education  
3     issues, which, as you all know, have taken on renewed  
4     prominence as we have moved into more competitive markets in  
5     telecommunications. It requires more vigilance, in my view,  
6     not only on behalf of consumer, as there are more  
7     competitors out there vying for their dollars, but also  
8     those of us in government have to be more vigilant to make  
9     sure that issues like slamming and cramming are on our radar  
10    screens, and that we are actively protecting consumers.

11           I'll tell you a little bit about how we plan to  
12    proceed today just from a procedural standpoint.

13           I will welcome the other Commissioners here to  
14    make opening remarks. Then we will introduce the first  
15    panel. I will ask all of the panelists to introduce  
16    themselves and tell us your affiliation. Then I will ask  
17    each panelist to take no more than eight minutes for their  
18    presentation, and the timekeeper, Ms. Dancey, will indicate  
19    when two minutes remain, and I do implore the you be very  
20    mindful of the time. Then we're going to have some general  
21    Q and A's from the panelists.

22           We are going to alternate federal commissioners  
23    and state commissioners. I have given all the commissioners  
24    a list of the order of questioning. There is no logic to  
25    it. It was pretty much at random, and we will begin with

1 Chairman Johnson.

2 CHAIRMAN JOHNSON: Opening statement?

3 CHAIRMAN KENNARD: Opening statement, yes.

4 CHAIRMAN JOHNSON: Thank you, Mr. Chairman, and  
5 Commissioners of both federal and state. I think this is a  
6 moment that we should all be very proud of, to have an  
7 opportunity to address these issues.

8 As we attempt to implement the Telecommunications  
9 Act on both the state and federal level, one of the things  
10 that we keep hearing from customers is, as you try to  
11 transition for companies, remember us in the process. I've  
12 had the opportunity over the last year to hold about 45  
13 public hearings. Some of them have dealt directly with the  
14 consumer issues, slamming and cramming. Others have dealt  
15 with fair and reasonable rates, and what should that mean,  
16 and Universal Service type issues for customers.

17 Some of the messages are clear. Customers don't  
18 want to see competition for the sake of competition, and  
19 that they don't believe that Universal Service should mean  
20 higher local rates. Those concepts are seen as counter-  
21 intuitive.

22 I think that we should be able to, from the  
23 comments of our panelists on both panels, have a better  
24 appreciation of those issues, determine how we're going to  
25 address those issues working together. To the extent that

1 we have consumer education programs, I brought with me my  
2 director of consumer affairs, Bev DeMello, because we are  
3 interested in partnering with industry and the federal and  
4 state regulators to make sure that customers are more  
5 informed.

6 We have learned a lot from the last time around. I  
7 think when we implemented some of the Universal Service  
8 programs, we, at the regulator stages and the companies,  
9 could have done a better job of educating and informing  
10 customers as to what would happen, and I think we have to  
11 remain cognizant of that process as we endeavor to implement  
12 whatever else might need to be implemented.

13 As we hold these panels, and as we begin our  
14 deliberations as it relates to Universal Service, I am  
15 always reminded that we are becoming less economic  
16 regulators and more consumer educators, and I keep that in  
17 mind as we hear your comments on both affordability, I say  
18 that to the panelists, and on consumer education and how we  
19 are going to make customers better understand the new  
20 competitive markets in which we will be participating in.

21 And with that, again I would like to thank you,  
22 Mr. Chairman, and Commissioner Ness for her involvement and  
23 her leadership on the Universal Service Joint Board, and we  
24 look forward to comments and deliberations.

25 CHAIRMAN KENNARD: Thank you.

1 Commissioner Ness.

2 COMMISSIONER NESS: Thank you, Mr. Chairman.

3 I just want to make two points. Point one is that  
4 the consumer is at the heart of everything that we do. And  
5 point two is that point one is as valid for state  
6 commissioners and state consumer advocates as it is for  
7 federal commissioners.

8 So I'm glad to have this joint assembly of FCC  
9 commissioner and State Joint Board members so that we can  
10 explore all of the issues that we both are grappling with,  
11 and I look forward to the discussion today.

12 Thank you.

13 CHAIRMAN KENNARD: Thank you.

14 Commissioner Schoenfelder.

15 COMMISSIONER SCHOENFELDER: Thank you, Mr.  
16 Chairman, and thank you for having us here today.

17 I am going to be very brief, and rather than just  
18 to repeat what Commissioner Johnson has said, what I'm going  
19 to do is invite you to come to NARUC the 8th of November,  
20 and listen to some of the same discussion as the states get  
21 into the discussion of what we can do for consumers also.  
22 So I hope that will take off from here and we can learn here  
23 and add to that. So I would like to invite you all to come  
24 to that.

25 Thanks.

1 CHAIRMAN KENNARD: Well, I'll be there.

2 Commission Furchgott-Roth.

3 COMMISSIONER FURCHGOTT-ROTH: Thank you, Mr.

4 Chairman.

5 I just would like to take a brief moment to  
6 welcome the panelists here, particularly on the first panel.  
7 Mr. Metts has come from Penasco Valley, in New Mexico, and I  
8 had the great pleasure of visiting Commissioner Tristani's  
9 home state in August and meeting with Mr. Metts and other  
10 folks from some of the small rural telecos in southeastern  
11 New Mexico. Mr. Gumper, it's always a pleasure to see you,  
12 and I particularly would like to welcome our consumer  
13 advocates, both from the State of West Virginia, and Mark  
14 Cooper, who does such a fine job for Consumer Federation.

15 Consumer advocates have a rare position in our  
16 society of providing some sense of moral authority, if you  
17 will, on behalf of consumers. They have both the privilege  
18 and the responsibility of speaking on behalf of consumers  
19 for what the world might look like.

20 We has commissioners, whether at the federal or  
21 the state level, have a different responsibility, and that  
22 is to interpret the law as it is written, and these two work  
23 together very well.

24 I very much look forward to your comments from the  
25 perspective of consumers about how Universal Service should



1 be implemented, and I hope very much to hear particularly  
2 your views about what agency has the specific legal  
3 authority to do precisely what you would think best in the  
4 consumer interest, whether that is the federal commission,  
5 the state commissions, or whether in fact there may not be  
6 the specific legal authority to do what you think best, and  
7 in some sense that might have to be left either for state  
8 legislators or for Congress.

9 It is a great pleasure to be here on a panel with  
10 both federal and state commissioners because I think many of  
11 the issues will be addressed today may not necessarily lie  
12 in the federal jurisdiction, and we look forward to  
13 understanding better how these can be addressed at the state  
14 level as well.

15 Thank you, Mr. Chairman.

16 CHAIRMAN KENNARD: Thank you, Commissioner.  
17 Chairman Wood.

18 CHAIRMAN WOOD: Thank you, Bill.

19 I think all of us appreciate being up here with  
20 you all on these important issues.

21 Just a little background, we in Texas are going  
22 through a Universal Service Fund restructuring that we  
23 anticipate being done in two months, and are going through a  
24 lot of these issues in an accelerated time frame as we're  
25 experiencing collectively here.

1           And I think one of the things, and I was reading  
2     the testimony last night, believe it or not you are all more  
3     interesting than anything that was in C-SPAN or CNN. Parts  
4     of the world out there aren't as interested in the elections  
5     as maybe folks here are.

6           But the reading did point out a few things from  
7     both panels that I would like you all to just muse over and  
8     help me understand more today is we do have a very subsidy  
9     rich industry we're talking about here with a lot of  
10    misallocated rates that for whatever purposes they are, they  
11    are. And in undoing that, which I think a competitive  
12    market will do and/or regulators that want to spur the  
13    development of a competitive market may want to do, a  
14    customer education effort is just real critical.

15           I am more than willing to assume the customers, if  
16    you tell them the truth, they're going to maybe not like it,  
17    but at least accept and understand and move on to the next  
18    issue.

19           I've got a litany of complaints from my customer  
20    protection unit that talk about the run around, that we get  
21    blamed for this, and then we blame so and so with that.  
22    We've even got one back from the FCC that said call the PEC,  
23    they regulate AT&T's rates, which made me kind of scratch.  
24    Joel, maybe we need to talk about that.

25           (Laughter.)

1 I'm going to assume as a given that the customers  
2 of Texas and the rest of the United States can handle the  
3 truth if we tell it to them in a clear way. And so I'm not  
4 scared of the fact that we've got some subsidies to undo. I  
5 can defend a Universal Service assessment if I know the  
6 money is going to the right place. But I think it's a  
7 collective effort that we've all got to take the pledge to  
8 do, and I look forward to maybe exploring with you all  
9 through both panels how to do that, because the pledge is  
10 pretty darn hard to write because nobody want to sign off on  
11 it just yet.

12 But I think the only way to get to a real  
13 competitive industry that does deliver benefits to the  
14 customer is to make sure that we are telling a unified and  
15 uniform truthful story to the public about what we're up to.

16 CHAIRMAN KENNARD: Thank you.

17 Commissioner Powell.

18 COMMISSIONER POWELL: I really had nothing to add  
19 to that. I would like to, however, formally associate  
20 myself with Commissioner Wood's remarks. I think that tee's  
21 up our challenge precisely, and I also thank both the  
22 Chairman and others for organizing this invaluable  
23 opportunity to meet with our state colleagues, and I welcome  
24 all of them, and very much look forward to hearing from the  
25 panel.

1 Thank you.

2 CHAIRMAN KENNARD: Thank you, Commissioner  
3 Martha Hagerty, our consumer representative

4 MS. HAGERTY: Thank you.

5 As I see our charge, and it always has been, is to  
6 preserve, I think the statute does say "preserve" Universal  
7 Service, and at the same time I think consumers have been  
8 promised during all this legislative debate that they would  
9 have lower prices and more services, or better services.

10 I'm interested to hear what the consumers have to  
11 say about many of the proposals in this docket. Simply  
12 attempt to restructure rates, raise some rates, lower  
13 others, and in some cases I think there is a concern that  
14 what we call Universal Service rates, basic rates, are being  
15 proposed to be raised, I don't think that's what the Act  
16 envisioned. I would like to have that debate today.

17 Secondly, with respect to consumer education, I  
18 think it's obviously very incumbent upon the regulators to  
19 address this issue. It's time that this issue be tee'd up.  
20 All of us who deal with consumers in our states are aware of  
21 the complete confusion that consumers are undergoing and  
22 their inability to make intelligent choices because they  
23 simply do not have the information in front of them. So  
24 I'll be very anxious to hear the panel today.

25 CHAIRMAN KENNARD: Thank you.

1 Commissioner Tristani.

2 COMMISSIONER TRISTANI: Mr. Chairman, first of  
3 all, I want to welcome all my fellow commissioners and the  
4 consumer advocate, fellow commissioners from the states. I  
5 still have my heart in the states, as you well know. And I  
6 am delighted that we are having this hearing.

7 Two things: Our first panel is entitled "Ensuring  
8 Affordability and Consumer Choice," and it sounds like we're  
9 sure that things are affordable right now, and that may be  
10 true for the vast majority of Americans, but I think we need  
11 to remember that our penetration rate, which is about 94  
12 percent, is not across the board, and there are certain  
13 Americans that are very, very out and not connected, whether  
14 it be Native Americans in New Mexico, whether it be the 26  
15 percent of households in my native island of Puerto Rico who  
16 do not have telephone service, whether it be many minorities  
17 in the inner cities that don't have telephone service.

18 So my interest is not only ensuring that those  
19 American that are connected continue to have affordable  
20 service, but those that are not get connected.

21 Now, some may say, oh, there may be other issues,  
22 there may be cultural issues, a variety of issues that we  
23 don't know that keep other Americans from being connected,  
24 that may be, but I think affordability probably is a big,  
25 big concern.

1           Our second panel has to do with consumer  
2   education, and that's one I particularly welcome. Less we  
3   forget, we have a consumer cost center at the FCC. And, Mr.  
4   Chairman, I looked at our web page today. I wanted to know  
5   how many calls we had gotten on slamming and cramming  
6   through September 30th. And if my arithmetic is correct,  
7   because I had to add up several categories, 101,611. That's  
8   the people who know that we have a hot line to call. Those  
9   numbers alone tell us that we have to do everything, working  
10   together, the FCC and the states, consumer advocacy groups,  
11   any groups that can help us, to inform the public on what  
12   their rights are when they are deceived.

13           Thank you, Mr. Chairman.

14           CHAIRMAN KENNARD: Thank you, Commissioner.

15           Commissioner Baker.

16           COMMISSIONER BAKER: Thank you, Mr. Chairman.

17   It's, of course, a pleasure to be here. I will reserve  
18   comment other than just to, of course, thank the federal  
19   commission, my state counterparts, and, of course, the state  
20   and federal staffs, and, of course, today's panelists for  
21   efforts that they have put forth towards today and  
22   tomorrow's panels, and we're all very glad to participate in  
23   this process.

24           I would like to make one comment that  
25   affordability is obviously important notion, and one which

1 needs to be addressed, and one which needs to be preserved,  
2 but also part of the equation is the quality of service that  
3 consumers receive, and we need to be mindful of that in  
4 addressing the issues of cost, and realizing that consumers  
5 want more than just the cheapest product; they want the best  
6 value for their telecommunications dollar, and that's an  
7 equation which balances cost and quality.

8 Thank you.

9 CHAIRMAN KENNARD: Thank you.

10 Now we will proceed with our panelists again. I  
11 will ask that you introduce yourselves, and I will also ask  
12 that you limit your remarks to eight minutes. We will go  
13 through the presentations of all the panelists and then we  
14 will have some questioning from the commissioners. Thank  
15 you.

16 Mr. -- who is beginning here? Mr. Gregg.

17 MR. GREGG: Thank you. My name is Billy Jack  
18 Gregg. I'm director of the Consumer Advocate Division of  
19 the Public Service Commission of West Virginia.

20 I want to say good afternoon to all the  
21 commissioners, thank them for having us here today.

22 I have arranged my statement as a response to each  
23 of the questions posed by the Commission in setting up this  
24 panel.

25 The first question was, "Is the goal of affordable

1     basic service being met?"

2             Yes, current rates for basic service are  
3     affordable and becoming more affordable. Even before the  
4     advent of the Telecommunications Act of 1996, the general  
5     trend in rates was down. Why? Because transcending any  
6     changes in law and regulation, telecommunications continues  
7     to be a declining cost industry. Between 1992 and 1997,  
8     local rates held steady while general inflation rose by 15  
9     percent. At the same time toll rates came down by 31  
10    percent while use of the network increased by 61 percent,  
11    according to the Commission's most recent study of revenues  
12    in the telecommunications industry.

13            In approaching the issues of Universal Service and  
14    access charge forum, the Commission and Joint Board must  
15    keep in mind that affordable rates are assumed by Americans  
16    as a given. Policies adopted to introduce competition into  
17    all area of telecommunications must not do damage to the  
18    level of affordability which has already been achieved.

19            The second question: Are there policies the Joint  
20    Board should consider recommending to meet the goal of  
21    affordable service?

22            The Commission and the Joint Board must remember  
23    that the ultimate goals of the Telecommunication Act of 1996  
24    are lower prices and better services for all Americans. The  
25    means that we have chosen to achieve those goals is



1 competition. However, some seem willing to sacrifice the  
2 ultimate goals of the Act and the affordability we have  
3 already achieved in an attempt jump start local service  
4 competition.

5 Citing the wording of Section 254, which requires  
6 that Universal Service support be explicit and sufficient,  
7 they argue that basic rates must be raised to unaffordable  
8 levels, and that the federal Universal Service Fund must  
9 swell to \$20 billion.

10 I say to you most emphatically that the purpose of  
11 including the specific Universal Service guarantees in  
12 Section 254 of the Telecommunication Act was not to impose  
13 \$50 a month basic service charges on rural customers, nor to  
14 impose a 20 percent Universal Service surcharge on all  
15 customers.

16 On the contrary, the explicit goal of 254 is  
17 affordable service for all, and rates in rural areas that do  
18 not vary appreciably from those available in urban area.

19 Furthermore, there is no language in Section 254  
20 nor in any other part of the Act which requires that access  
21 charges be reduced and that Universal Service obligation be  
22 raised to pay for such reductions.

23 Policies which the Joint Board should consider to  
24 meet the goal of affordability should include the following:

25 First, do no harm. Rates are affordable now. The

1 Telecommunications Act was passed to make rates even more  
2 affordable for everyone. Whatever you do don't make average  
3 consumers in this country worse off as a result of your  
4 decisions, which are supposed to maintain and enhance  
5 Universal Service.

6 Second, let states take the lead in determining  
7 affordability. The cost of living is different in different  
8 states, and it stands to reason that affordability will also  
9 differ. Each state should be able to determine  
10 affordability according to its own standards and experience.

11 Some states have already proposed rate benchmarks  
12 for their own purposes. For example, Nebraska has proposed  
13 an affordability benchmark of \$22.00, including the  
14 subscriber line charge and other surcharges, while Wyoming  
15 has proposed \$25.00, excluding the SLIC and other  
16 surcharges. Other states may propose different standards.  
17 Some states have rates based on measured rates. Others  
18 prohibit measured rates. Each state is different.

19 The Commission should ensure that states continue  
20 to receive at least the level of federal Universal Service  
21 support they current receive, and let each state plot its  
22 own course in determining when and how it will reorganize  
23 internal subsidies and local rates, if any. If additional  
24 federal support is needed after competition actually begins  
25 at the local level, the issue can be addressed at that time

1 with the benefit of actual data.

2 Third, additional Universal Service support should  
3 not flow until competition actually develops. Competition  
4 is supposed to drive out the implicit subsidies in existing  
5 rates within each state. Great, let competition do it.  
6 Regulators shouldn't. Regulators are very bad at  
7 replicating the market. There is no harm in devising a  
8 Universal Service support system which can kick in if and  
9 when competition actually begins to erode revenues  
10 supporting the existing network to unacceptable levels.

11 However, it would be the height of folly for  
12 regulators to attempt to wring out perceived implicit  
13 subsidies before competition begins. The only result will  
14 be insupportably high local rates and/or insupportably high  
15 Universal Service surcharges.

16 Fourth, avoid mandatory surcharges, especially  
17 fixed per line surcharges. Fixed per line surcharges tend  
18 to endure regardless of changes in underlying cost. Witness  
19 the subscriber line charge. In spite of numerous reductions  
20 in access charges over the past few years and in spite of  
21 reductions in the underlying cost of telecommunications and  
22 in spite of the earnings of the companies which receive the  
23 SLIC, the SLIC has remained fixed, immune to changes in the  
24 surrounding environment.

25 Fifth, be aware of the impact of the totality of

1 your decision. In determining the affordability of basic  
2 service for consumers, it is the totality of rates that is  
3 important. Local service plus any surcharges are line items  
4 charges. You will have accomplished little by defining  
5 affordability as an arbitrary dollar figure if an excessive  
6 Universal Service surcharge must be added to the customer's  
7 bill to make the so-called affordable level achievable.

8 The third question: To the extent that surcharges  
9 are imposed, are there policies that the Joint Board should  
10 recommend to ensure that rates remain affordable?

11 As I've stated above, the real question is whether  
12 surcharges should be imposed at all. I emphasize again the  
13 Commission should not impose mandatory surcharges on end  
14 users. In fact, I would point out that some states have  
15 prohibited recovery of state Universal Service contributions  
16 through surcharges.

17 However, if surcharges are imposed, the following  
18 policy should be followed to ensure that rates remain  
19 affordable:

20 First, federal surcharges should apply only to  
21 services over which this Commission has jurisdiction;  
22 namely, interstate services.

23 Second, surcharges on end users should not be  
24 mandator. Section 254(d) of the Telecommunications Act is  
25 very clear that every telecommunications carrier rather than

1 every telecommunications customer must contribute to  
2 Universal Service support mechanisms. So far this  
3 Commission has followed this clear directive of the Act and  
4 has continued to impose Universal Service obligations on  
5 carriers, allowing them to recover those costs in any lawful  
6 manner.

7 Third, the subscriber line charge should be  
8 reduced or eliminated. If the Commission is tying together  
9 the issues of Universal Service reform and access charge  
10 reductions, it must ensure that the subscriber line charge  
11 is also reduced. The SLIC was instituted in the mid-1980s  
12 as part and parcel of the imposition of the new access  
13 charge regime created after the break up of the Bell System.  
14 If it seems likely the Commission is going to reduce  
15 interstate access charges imposed on carriers as part of  
16 overall Universal Service reform, in fairness, the  
17 Commission must also reduce or eliminate the mandatory SLIC  
18 currently imposed on all end users.

19 I thank you for allowing me to present my views  
20 here today and I'll be happy to entertain any questions.

21 CHAIRMAN KENNARD: Thank you, Mr. Gregg.

22 Mr. Gumper.

23 MR. GUMPER: Thank you for inviting me to be here  
24 today. I thought you were going to go down the list. I  
25 wasn't quite ready.

1           First of all, I think I would agree with some of  
2     the comments we have just heard. Yes, telephone service for  
3     the vast majority of Americans is affordable. I think that  
4     affordability provides both state and federal regulatory  
5     bodies the flexibility to address some of the policy issues  
6     without fear of in fact making phone service unaffordable.

7           As a result of competition and as it develops,  
8     there may be a need for some increases in local rates and  
9     even the subscriber line charge. However, these types of  
10    increases will not reduce subscribership and they will not  
11    make basic telephone service unaffordable.

12           So what's the problem?

13           As Commission Tristani noted, there are areas,  
14    there are pockets where subscribership is still very low.  
15    For this segment of society, one of the actions that the  
16    Federal-State Joint Board took was to significantly enhance  
17    the Lifeline and Link-Up Programs.

18           As a member of the USAC board, I'm happy to report  
19    that as of August 1998, the last month which we have data  
20    available, there were 5.1 million Lifeline participants.  
21    More importantly, the first eight months of this year 1.3  
22    million households took advantage of the Link-Up Program to  
23    offset some of the initial connect charges for getting basic  
24    service. Currently, these programs are growing at an  
25    average rate of about two percent a month in terms of the

1 demand on those two different funds.

2 Jorge Schement has done extensive research work in  
3 telephone penetration. His most recent work indicates that  
4 it's not always clear what are the underlying causes of  
5 lower telephone penetration, particularly among different  
6 segments of society.

7 I'd like to cite some figures from his study, and  
8 actually cite from his study in terms of data representing  
9 owner-occupied housing units, and I would just point out  
10 that in my comments those figures are cite are for owner-  
11 occupied housing units, not for the general population as a  
12 whole.

13 As he points out, "Since those who own their own  
14 homes are most likely to have a telephone, the differences  
15 between the majority and minorities should be minimized.  
16 Therefore, owner housing units represent a strong test for  
17 the uniform existence of a telephone gap.

18 "In California counties, where data is available,  
19 the differences between African-Americans and whites vary in  
20 the extreme. Yuba County has a gap of 37.24 percent, while  
21 nearby Sacramento County shows almost no difference.  
22 Furthermore, five of the counties measured indicate higher  
23 telephone penetration rates amongst African-Americans than  
24 whites.

25 I think that kind of data indicates that the

1 explanation as to why we have different penetration rates in  
2 different areas of society is not something that is easily  
3 solved at a national level.

4 Again, to quote from this research paper, "If we  
5 wish to solve the mystery of the telephone service gaps, we  
6 will have to look beyond the data that has guided us in the  
7 past. We must go beyond national data that will uncover a  
8 complex array of factors more particular to localities than  
9 to the country as a whole."

10 I would state that this information indicates that  
11 the reasons that people do not have a telephone go far  
12 beyond price and affordability, and probably need to be  
13 addressed at a local level in terms of trying to design very  
14 specific programs if you're going to address those issues.

15 Another reason for reduced telephone penetration  
16 is that the cost of wiring sparsely populated areas can be  
17 very prohibitive. We've been at this game, I might say, for  
18 a long time, this idea of trying to identify what the cost  
19 of Universal Service is in remote areas precedes the Telcom  
20 Act. The models that we are looking at now, including the  
21 more recent version that the FCC has put out, started back  
22 several years ago, and there is no question that when you  
23 look at those models it indicates that there are areas of  
24 the country that it is extremely expensive to deploy wire  
25 line facilities.



1           I think what we've missed in the process, though,  
2   over these past few years is that wireless technology has  
3   probably become the more cost efficient way to serve the  
4   areas. One example I would give you is a subsidiary of Bell  
5   Atlantic Mobile, Southwestco Wireless, basically operates in  
6   Arizona serving many remote areas, including the Tohotum  
7   Indian Reservation, an area where, quite frankly, it's  
8   probably cost prohibitive to deploy wire line facilities.

9           Another example I quote was Western Wireless in  
10   Antelope Valley Nevada. This is an area where basically  
11   they were able to provide service to 58 customers who lived  
12   there for a cost of \$100,000 versus what would have been the  
13   wire line cost of \$1.3 million.

14           I would maintain that it is probably not in the  
15   best public interest to, in effect, subsidize or grant  
16   support levels to wire line companies in numbers that can  
17   exceed \$100 a month when in fact you can get wireless  
18   alternative that gives you almost nationwide coverage for  
19   that same price.

20           In closing, let me say that telephone service is a  
21   bargain and will remain affordable as local competition and  
22   technology develops. However, states and the FCC must  
23   address the implicit support in their rates that will not be  
24   viable with increasing competition, and I would add that  
25   that doesn't necessarily have to be done immediately, but as

1 competition develops.

2           Some states will not have the resources to solve  
3 their own high cost problems. For those states, and only  
4 those states, a small targeted federal fund can provide  
5 assistance to ensure that their rates remain affordable.  
6 The distribution of these funds within a state and the need  
7 for intrastate support program are more effectively  
8 addressed at the state and local levels. However, the Joint  
9 Board must continue to monitor these issues as we move  
10 forward to detect if additional policy intervention is  
11 warranted.

12           Thank you for this opportunity, and will be glad  
13 to answer any questions.

14           CHAIRMAN KENNARD: Thank you, Mr. Gumper.

15           Mr. Cooper?

16           MR. COOPER: Thank you, Mr. Chairman.

17           My name is Mark Cooper. I am Director of Research  
18 at the Consumer Federation of America. I have also  
19 testified in about 40 states. At least two dozen of those  
20 on Universal Service, including Texas and Florida, which are  
21 represented on the Board. I have a project in New Mexico  
22 looking at low income people.

23           The Joint Board and the Federal Communications  
24 Commission face a difficult task in the months ahead of  
25 lowering access charges to cost, expanding participation in

1 the Lifeline Program, funding the schools' libraries, and  
2 help grow Health Care Program, and providing high cost  
3 support to rural areas and insular areas, all this while  
4 keeping rates just reasonable and affordable.

5           However, the Joint Board and the FCC have already  
6 forced the conceptual framework to make this task manageable  
7 in the decisions that were laid down in 1996. They have  
8 firmly and soundly refused to change the fundamental  
9 principle, a simple idea that shared services should share  
10 the cost for the facilities they use. There is no legal,  
11 constitutional, economic or public policy reason to stop  
12 treating the loop as a shared cost between all the services  
13 that use it, the principle that was laid down 70 years ago  
14 by the Supreme Court.

15           The 1996 Act reaffirmed that fundamental  
16 commitment in Section 254(k) where not only was a subsidy  
17 for competitive services forbidden, but also basic service  
18 was required to bear no more than, and could bear less than,  
19 a reasonable share of joint and common costs.

20           If you accept that principle, we will have no  
21 difficulty preserving the affordability of service, and we  
22 have said that, CFA and its member groups, at the federal  
23 level and the state level. I recently testified to that, in  
24 fact, in Florida as well.

25           The FCC and the Joint Board have determined that

1 forward-looking economic costs are the only basis on which  
2 we can build an effectively competitive industry, efficient  
3 forward-looking economic costs, and I urge you to resist the  
4 tendencies to constantly build back in inefficiencies into  
5 your analysis under the threat or claim about stranded  
6 costs.

7           The FCC has already adopted the principle that the  
8 unit of analysis for unbundling the network elements should  
9 be the same as the unit of analysis for calculating  
10 Universal Service. If we have a statewide average unbundled  
11 network element, we ought to have a statewide average  
12 estimate of Universal Service costs.

13           The FCC and the Joint Board have adopted the  
14 fundamental principle that affordability is not just a  
15 question of are people willing to pay more, but what is the  
16 burden. That is an absolutely crucial observation. We know  
17 you could double the telephone rates and most people would  
18 keep their phones. The market will bear a lot more. The  
19 simple fact of the matter is we're not supposed to be  
20 pricing up to what the market will bear. And there are some  
21 people who will not be able to bear that increase in costs.

22           The fact that the telephone costs have been  
23 declining in real terms does not justify rate increases.  
24 Many consumer products, particularly those in the technology  
25 industries, have been declining in real terms. That's not a

1     justification to increase peoples' prices.

2             Now, we believe if you apply these principles you  
3     will have a manageable task, but there will still be a need  
4     for Universal Service Funds, and let me give you a few  
5     principles to apply, and specific principles we've advocated  
6     at the federal and state levels.

7             First, as you have already done, you must treat  
8     the telephone network as a multi-product integrated entity.  
9     Include all the revenues from the services that use this  
10    network. Don't try and get it all from basic service, which  
11    is what some companies would like you to do.

12            Second of all, all Universal Service programs  
13    should be funded from one source. This effort to split low  
14    income and high cost in school and libraries misses the fact  
15    that these are all Universal Service programs, all embraced  
16    by Congress and they should be funded in the same way.

17            Third, I believe that all Universal Service  
18    programs should be funded from all telecommunications  
19    revenues, and, again, in your order you establish the fact  
20    that you had the authority to do that. It's folly to burden  
21    one sector with all of the burden of Universal Service  
22    costs. Universal Service benefits all classes of customers,  
23    all services and all geographic areas.

24            Finally, the FCC has articulated the correct  
25    principle in how to collect funds. It has argued against

1 line items, and we believe that this is required by the Act,  
2 it's practically necessary, and conceptually correct.  
3 Legally, the Act required telecommunications service  
4 providers to make the contribution for Universal Service.  
5 Line items on consumers' bills are not service provider's  
6 contribution.

7 As a practical matter, the FCC has had a certain  
8 amount of difficulty of finding ways to ensure that federal  
9 rate cuts get passed through to residential and small  
10 business customers. If you impose a line item on peoples'  
11 bills, they will suffer a net increase because you've been  
12 unable to figure out how to make sure the little guy gets  
13 his share of the rate cuts.

14 Conceptually, I don't believe that line items are  
15 appropriate. Now, let me make it clear. We firmly believe  
16 that consumers should get useful and correct information in  
17 their bills so that they can make effective economic  
18 choices. But a Universal Service line item is neither  
19 economically useful nor economically accurate.

20 When you put a line item on someone's bill, there  
21 is nothing the consumer can do with that information. Every  
22 service provider charges them, so they can't avoid it. It  
23 cannot inform their consumption decision, and that's what  
24 economic decision-making is about.

25 When you put a line item on their bill, the

1 consumer has no way to accurately measure its value.  
2 Universal Service is a public good. The indirect value of  
3 ubiquity is an externality that consumers have difficulty  
4 evaluating.

5 More importantly, those consumers who are the  
6 direct beneficiary of that Universal Service Fund would be  
7 completely uniformed if you tell them you're paying \$2.00  
8 for Universal Service, but you don't also tell them you're  
9 receiving \$10.00 of subsidy. It is very difficult to  
10 portray that information.

11 Now, if the purpose of putting the information on  
12 a consumer's bill is a policy purpose -- excuse me -- a  
13 political purpose, to tell them that the program exists,  
14 then be my guest. Once a year inform them that there is a  
15 Universal Service Fund. Here is what it's for, here is how  
16 it's paid, and here is how much it costs in the aggregate.  
17 That is useful political information. I don't think it has  
18 any place on a consumer's bill, but fine, put it there if  
19 you think you want to inform them.

20 Thus, we believe that Universal Service can be  
21 achieved by a simple set of principles that the Joint Board  
22 and the FCC have already articulated. There is one way I  
23 can suggest that you can guarantee the little guy, the  
24 residential rate payer will get a benefit, and that is to  
25 reduce the subscriber line charge. I've said this a few

1 times in the past. I will say it again. It's an idea whose  
2 time has come.

3 Fifteen, approximately 15 years ago when we began  
4 to put this charge in place, we had an estimate of federal  
5 costs that were brought into the federal jurisdiction, and  
6 over those 15 years the cost of basic service has declined  
7 dramatically, but the subscriber line charge never has. Now  
8 is the time to ensure that rate payers get some of the  
9 benefit that was promised by this Act by reducing the  
10 subscriber line charge.

11 You can also reduce other charges and raise your  
12 Universal Service Fund. We prefer that that fund be raised  
13 from service providers. That's what Congress thought,  
14 that's what is economically rational, and that is what we  
15 think will support this program and continue to advance  
16 Universal Service.

17 This is a complex task as the Commission and the  
18 Joint Board have learned in the last couple of years. We  
19 look forward to working with you to build on the sound  
20 principles you've already laid down.

21 Thank you.

22 CHAIRMAN KENNARD: Thank you, Mr. Cooper.

23 Mr. Metts.

24 MR. METTS: Good afternoon, Mr. Chairman,  
25 Commissioners, Members of the Joint Board.



1 I am John C. Metts, Chief Executive Officer and  
2 General Manager of Penasco Valley Telephone Cooperative, PVT,  
3 headquartered in Artesia, New Mexico.

4 I am appearing today on behalf of the National  
5 Telephone Cooperative Association, NTCA, of which I am a  
6 member of the board of directors, representing Arizona, New  
7 Mexico, Oklahoma and Texas. NTCA represents approximately  
8 500 small and rural telephone companies operating throughout  
9 the United States and in nine foreign countries.

10 We appreciate the opportunity to appear before you  
11 to discuss the issue of affordability, which is among the  
12 most critical issues for rural telephone companies during  
13 the transition to the new competitive environment.

14 PVT is a subscriber-owned cooperative which serves  
15 just over 3,000 access lines in six exchanges scattered over  
16 4600 square miles in southeastern New Mexico. The largest  
17 community in our telephone service area is Mayhill, New  
18 Mexico, with a population of 300 people. Approximately 20  
19 percent of our access lines serve businesses, the rest are  
20 residential.

21 PVT services and technologies are state-of-the-  
22 art, with all digital switching, equal access, advanced  
23 calling features, and INSD capability. Some of our most  
24 remote subscribers are served by BEDRS Radio. Otherwise, we  
25 use a mixture of fiber and copper looped technology.

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1           In addition to POTs and advanced services, PVT  
2           offers interactive educational television to the schools,  
3           internet access, cellular and paging. PVT is beginning  
4           construction of PCS service and has obtained an LMDS  
5           license.

6           Our basic service rate is \$14.90 per month for  
7           residential, and \$20.30 for business customers. PVT is  
8           typical of small rural telephone companies in the NTCA  
9           membership, except like most western countries, its  
10          subscriber density is much lower.

11          I believe there is general agreement that basic  
12          telephone service today is generally affordable for most of  
13          the population. This agreement was reflected in the Joint  
14          Board's recommended decision and the Commission's report and  
15          order in the Universal Service proceeding.

16          The Joint Board and the Commission also concluded  
17          correctly that affordability has both an absolute component  
18          and a relative component. I also are that subscribership is  
19          an important issue, but not the only measure of whether  
20          service is affordable.

21          PVT, like most NTCA member companies, has a high  
22          level of subscribership. In addition to subscribership,  
23          regulators should consider affordability issues in the  
24          context of the other Universal Service principles in Section  
25          254 of the Act. The first of which is that rate should be

1 just, reasonable and affordable.

2 The Act also establishes that rates for urban and  
3 rural areas must be reasonably comparable for similar  
4 services. Any comparison of rates must, as the report and  
5 order recognized, consider the vast differences in calling  
6 scope between urban and rural companies.

7 PVT has an average of 500 access lines per  
8 exchange. However, with EAS to US West areas from three of  
9 these exchanges, the average subscriber in those exchanges  
10 has a calling scope of approximately 5,055 lines. For the  
11 other three exchanges, the local rate only provides access  
12 to 104, 458 and 1206 lines, respectively, and those  
13 exchanges calls, the school, doctors and county seats are  
14 toll calls.

15 Even with EAS, rural subscribers necessarily use  
16 much more toll than urban subscribers to conduct their daily  
17 affairs. That's a fair comparison to both local service  
18 rates and the average intra-LATA toll bill.

19 It's very important at this critical point in the  
20 implementation of the 1996 Act to pause for a moment to  
21 reflect on how it became to be that rural areas are so well  
22 served today, especially by rural telephone companies.

23 The good service and affordable rates we now enjoy  
24 have not always been available to rural areas of this  
25 country and generally are still not in major portions of the

1 world.

2 Before making extensive changes in this successful  
3 system, it's important that the Joint Board and the  
4 Commission have a very degree of confidence on the  
5 replacement methodology.

6 As Chairman Kennard so aptly said earlier this  
7 year, "Most important, we must make sure that the new  
8 Universal Service mechanisms work."

9 To make a long story short, affordable quality  
10 service has been widely deployed since the Second World War  
11 in high cost, low density rural areas because of a  
12 combination of factors.

13 First, in 1949, The Rural Electrification Act was  
14 amended to provide loans to telephone companies serving  
15 rural areas. Congress took this action in response to find  
16 the telephone subscribership in rural areas was very low and  
17 had in fact declined substantially since 1920. Around the  
18 same time, the FCC, working with the Joint Board, began to  
19 evolve the separation rules which in their present form  
20 allow for recovery of substantial portion of the cost of a  
21 rural company to be recovered through access charges and  
22 Universal Service support.

23 For 1996, rural utility service borrowers obtained  
24 64 percent of their revenues from these sources and only 27  
25 percent from local service charges.

1           The result is that local rates are affordable  
2 despite the much higher per subscriber cost for providing  
3 service. For those subscribers for whom the local rate is  
4 still too expensive, Lifeline and Link-Up Programs may make  
5 the difference. PVT participates in both state and federal  
6 assistance programs.

7           The exception to the general availability of  
8 affordable telephone service is in those remote areas where  
9 potential subscribers of non-RUS borrowers are required to  
10 contribute several thousands of dollars in aid to  
11 construction charges in order to obtain service. For most  
12 families in remote areas, particularly on Indian  
13 reservations, these charges effectively preclude  
14 subscription to service.

15           The Commission's decision to fund only 25 percent  
16 of the Universal Service support necessarily means that in  
17 many high cost rural states the support will not meet the  
18 statutory criteria of sufficient and predictable, and that  
19 local rates will not be just, reasonable and affordable, nor  
20 comparable to urban rates. I understand that this decision  
21 is now being reconsidered, and I applaud the Chairman's  
22 statement last April that recognized that there are areas  
23 where it makes little sense to limit federal support to 25  
24 percent.

25           States which have mostly high cost areas cannot

1     raise the 75 percent of the support within their borders  
2     except by extracting contributions from subscribers at a  
3     level that defeats the purpose of Universal Service support.  
4     The point has been well explained in the reconsider  
5     petitions of several states and the local exchange carrier  
6     associations. I would add, however, that this question  
7     needs to be addressed sooner rather than later as many  
8     states are actively considering state Universal Service  
9     funds and the unresolved 75/25 issues makes it almost  
10    impossible to understand what will be needed in the  
11    individual states.

12           Third, continued affordability of local service is  
13    depended on recognition of the impacts of various aspects of  
14    the Commission's access reform orders. The two primary  
15    concerns are primary inter-exchange carrier charge, PICC,  
16    and the subscriber line charge.

17           When the Commission first adopted the subscriber  
18    line charge, it was recognized by all that from the  
19    subscriber's perspective the subscriber line charge was  
20    added to the local service charge to determine the bottom  
21    line amount required for each month to maintain dial tone.  
22    However, at that time there was a more clearly identifiable  
23    pass-through of the reduced access charges by inter-exchange  
24    carriers in that there were corresponding toll rate  
25    reductions. This process maintained the essential character

1 of local service charges as mandatory and toll as a  
2 discretionary expenditure.

3 I thank you for the opportunity to be here today.  
4 I'll be glad to answer questions.

5 CHAIRMAN KENNARD: Thank you very much, Mr. Metts.

6 We'll now go to a question and answer period from  
7 the panel here. I'll ask each of the commissioners who are  
8 inclined to ask questions to limit their questioning to no  
9 more than a four-minute question and answer period per  
10 commissioner, and we'll go in the order that we gave our  
11 opening statements.

12 I'll begin by asking just a couple of brief  
13 questions of the panel.

14 Mr. Gumper, first of all, let me thank you and  
15 commend you for your service on the USAC board. You've been  
16 a very dedicated participant in that organization, and I  
17 just wanted to publicly commend you and thank you.

18 And I was very interested to hear your report on  
19 the effectiveness of the Lifeline and Link-Up Programs as  
20 those programs have been expanded and made more effective.  
21 But I was having difficulty reconciling that with your  
22 position in your testimony that you believe that meeting the  
23 challenge of underserved areas is principally a local issue  
24 because it seems to me -- first of all, I agree with you  
25 that these issues of serving underserved areas are very

1 complicated and they are made more complicated by issues of  
2 poverty and race and class, and these are not easy issues  
3 for us as a country. They never have been.

4 But I part company with you when you say that  
5 these issues, as they pertain to affordable telephone  
6 service, should not be dealt with at the federal level, and  
7 I think Lifeline and Link-Up are good examples of how we've  
8 had a federal role and a matching state role that has been  
9 quite successful.

10 And I'm just curious how you reconcile those two  
11 positions.

12 MR. GUMPER: Let me be clear. What I meant by  
13 that was that the -- I think the federal program of Lifeline  
14 and Link-Up is out there, and obviously it has been expanded  
15 and it will help resolve some of the penetration issues.

16 I think the question is do you need to do more in  
17 terms of telephone penetration other than what the program  
18 that you have already put in place. And the answer to that,  
19 I believe, would be no; that given the telephone penetration  
20 in terms of the socio-economic people we're talking about,  
21 what we're down to, and I think the study by Jorge really  
22 points that up, these variations go beyond the question of  
23 just affordability and price.

24 The Lifeline and Link-Up Programs are there for  
25 those people that lack a telephone is a question of



1 telephone price, they can take advantage of that. I would  
2 maintain, though, that there are still going to be people  
3 who for other reasons aren't going to want to have a  
4 telephone in their home. And I know that comes as a shock  
5 to some of us.

6 And I know when I was a -- years ago I had a -- I  
7 used to commute to Rockland County and there was a working  
8 couple, and one day I offered to give them a ride home  
9 because he didn't have a car, and they were both -- had nice  
10 jobs, and as we were approaching their apartment, they said  
11 could I stop at the pay phone so they could make a call and  
12 make arrangements for a taxi the next morning.

13 And when they got back in I said, "You don't have  
14 a phone at home." And they looked at me and said, "No, we  
15 are pestered by phones all day long on our jobs, and the  
16 last thing in the world we want in our house is a phone."

17 Now, these were two well-to-do, you know, couples,  
18 could easily afford a phone. They didn't want one.

19 So I think the problem we have to deal with is  
20 that there are going to be -- we're never going to get to  
21 zero percent, and that's why I think if one wants to go  
22 beyond the Lifeline and Link-Up, it's going to take a  
23 different type of emphasis to understand what it is that's  
24 driving people who don't take advantage of these programs  
25 not to have telephones in their homes. That's all.

1           CHAIRMAN KENNARD: It seems to me that the class  
2 of people who don't have a telephone just because they don't  
3 want one but can otherwise afford it is a very, very small  
4 percentage of American, and not, frankly, one that, I agree  
5 with you, we shouldn't be terribly concerned about, that's a  
6 matter of a personal choice.

7           But I don't think it's appropriate, though, for  
8 the class of people who don't have phone service for other  
9 reason, be it affordability or issues of poverty or  
10 education, that we should just abdicate the federal role  
11 altogether, because there are -- certainly most states will  
12 act responsibly in this matter. But there may be those  
13 states that don't, may not have the resource, and it seems  
14 to me that there should be a federal safety net of sorts to  
15 make sure that we can advance universal service to the  
16 extent possible.

17           Mr. Cooper, you touched on an issue that we have  
18 been grappling with for quite some time at the Commission,  
19 and that is how we make sure that consumers get the benefits  
20 of savings in a declining cost industry. And I'm curious as  
21 to whether you have some more specific proposals or guidance  
22 that you can give us on ways that we as regulators and  
23 policy makers can ensure that consumers get the benefits of  
24 access charge reductions, for example, all classes of  
25 consumer, not just the more attractive high-end business

1 customers.

2 MR. COOPER: Well, the first answer and one that  
3 CFA has always embraced is that the consumer's best friend  
4 is effective competition. That is the best form of consumer  
5 protection. The difficulty is that we do not have effective  
6 competition in many telephone markets, and we particularly  
7 don't have it in the residential and local exchange and  
8 exchange access markets.

9 So the first line of defense is something that  
10 this Commission, again, has been working on in terms of its  
11 local competition approach, and it's the 271 process, and  
12 that will take a long time. It's become quite clear that a  
13 100-year-old monopoly may take 100 years to go away. Who  
14 knows? It's not going away so fast. That's the first line  
15 of defense.

16 If that line of defense -- if that form of  
17 consumer protection is not going to work, then you have to  
18 look at the regulatory approaches. Our experience has been,  
19 CFA has not itself looked at the numbers, but the way I like  
20 to put it is that there has been enough finger pointing back  
21 and forth so that neither side has any credibility to  
22 demonstrate to the average consumer that they've been  
23 getting the benefits of the cost reductions that this  
24 Commission has ordered. My folks just don't believe  
25 it, and they want a better measure.

1           We relied upon the subscriber line charge as a way  
2   for you to at the end of the day say, look, that number is  
3   on the bottom of your bill and it got smaller. That was the  
4   number put on in the 1980s. It grew to its current level by  
5   the mid-'80s, and it stayed there. And other numbers have  
6   been reduced by this Commission.

7           Back in 1980, the split of the recovery of those  
8   costs in the federal jurisdiction was 50/50. Because of the  
9   last 10 years of reducing other charges and leaving that one  
10   alone, I think it's something like 80/20 today. That is, of  
11   those original costs, we're getting 80 percent of them from  
12   the end user and 20 in the usage charges.

13           One way to go about this is get us back to the  
14   50/50. Make that reduction. I know I write that check  
15   every month. And so if you lower that number, you can say  
16   we lowered that. Will other numbers go up? That's our  
17   fear, but at least you have this bottom line protection.

18           It's extremely important that if you do it, you  
19   tell people you've done it because the cost of providing the  
20   service has gone down, which it demonstrably has. That  
21   means that people then can't run and say you've got to  
22   replace that money. There is nothing to replace. It's  
23   become less costly to provide service, and I think that's  
24   exactly what regulators should be doing. We support that in  
25   the access area. We support it in the subscriber line

1 charge. Move prices to costs, and that's the one place you  
2 really do control that number. I understand you don't  
3 control a bunch of other numbers, although we wish you had  
4 retained control of some of them, but clearly that's one you  
5 have control over.

6 CHAIRMAN KENNARD: Thank you, Mr. Cooper.  
7 Chairman Johnson.

8 CHAIRMAN JOHNSON: Yes, let me follow up on that  
9 with Mr. Cooper and Mr. Gregg also providing an answer.

10 So I guess it's your opinion then that if we were  
11 to look at access, if we assume that there is some Universal  
12 Service support in access, and I'm not certain if you agree  
13 with that or not, but let's just assume it for now, and you  
14 were to restructure that in some way.

15 If we could ensure that there was a flow-through  
16 and so that minute of use would go down, even though we've  
17 restructured and put some of it on the end user's bill, if  
18 we can show that the bill will go down, not necessarily the  
19 local rate but their overall bill would go down, would that  
20 be a concept you would be supportive of? And maybe that's  
21 too hypothetical, but if you can answer that, that will be  
22 helpful.

23 Then I want you to tell me how we can get those  
24 dollars to be flow-through so that we can have some minute  
25 of use benefit.

1 MR. COOPER: Well, there is two difficulties.

2 One, when you say the bill goes down, the problem is that  
3 you will only be able to tell me the average bill goes down  
4 because if you lower the per minute of use charges, it's  
5 clear that the people who use the most minutes gets the  
6 biggest cut, and the people who use a small number of  
7 minutes get a little cut and -- I mean, the numbers are  
8 proprietary. You ought to ask companies, but there is a  
9 substantial number of people who don't place a long distance  
10 call in a given month, so they get no reduction. So you  
11 have always got this problem of flowing through your per  
12 minute reduction to people in an equitable fashion, which is  
13 why I prefer this.

14 I know my constituents pay that subscriber line  
15 charge every month. And so if you put a Universal Service  
16 dollar on their bill and take a subscriber line dollar off  
17 their bill, well, you haven't done much, you've changed the  
18 name, but at least I know my bill didn't go up.

19 CHAIRMAN JOHNSON: Well, if that end user  
20 surcharge, it was a surcharge based upon revenue, that would  
21 at least be a little more equitable because --

22 MR. COOPER: Oh, absolutely.

23 CHAIRMAN JOHNSON: -- the ones that use more  
24 minutes would pay more.

25 MR. COOPER: If you force me to accept a line item

1 on the bill, and I've said that in my testimony, I think it  
2 ought to be as a percentage of all the services sold. I  
3 think all the services benefit from ubiquity, and so if you  
4 make me accept the line item, then clearly I prefer a  
5 percentages of the total bill as opposed to identifying  
6 basic service.

7 And think about it. The purpose of this program  
8 is to keep basic service affordable. Why then do it on a  
9 per line/per month basis which is, of course, attacking the  
10 affordability. Do it on a percentage of revenue basis. I'd  
11 much prefer that.

12 If you give me a percentage of revenue basis, then  
13 the match between the high volume users who are getting the  
14 cuts in their per minute charges and paying the surcharge  
15 are clearly much better, and then you can say with much  
16 greater confidence that the two balance one another out.

17 One thing is very important is when we look a  
18 these per minute surcharges, a lot of the benefit flow out  
19 to business customers, and we're all for business, but  
20 remember it's the business customers that frequently,  
21 certainly large businesses, are heavy users. They are the  
22 guys that have already been getting the cuts in the  
23 marketplace so far as we can tell. Now you're going to cut  
24 costs again. They capture it. So if you do a percentage of  
25 total bill, at least you're charging the people who appear

1 to be getting the benefits of what competition there is.

2 CHAIRMAN JOHNSON: Can you -- you said one other  
3 thing as to the general proposition of perhaps local rates  
4 may go up but bills would go down you said for the average  
5 customer.

6 Do you know, or maybe Mr. Gumper may know, whether  
7 or not we have any information in the record that could kind  
8 of give us a demonstration of the usage, how many people use  
9 long distance, \$10.00 a month, \$5.00 a month? Is there a  
10 way to have that information to give me more information  
11 when I have to make these kind of hard decisions?

12 MR. COOPER: Well, in Florida, where we have this  
13 ongoing proceeding, depending on how you calculate what goes  
14 up and down, but if you -- if you lower the cost -- the  
15 price of all the vertical services, that is, everything but  
16 basic and try and make that up on basic, three out of four  
17 people end up with higher bills, particularly because so  
18 much goes off to the business customers.

19 Now, if you just hold it back and say we're only  
20 going to do local and long distance for residential  
21 customers, well, then, it's easier. But remember, in the  
22 State of Florida, and I just testified there, out of every  
23 dollar of rate rebalancing, 40 cents went out of the  
24 residential class and into the business class.

25 It's very difficult to say the residential



1 customer is going to be whole when that much goes between  
2 classes. This is just the arithmetic of rebalancing rates.

3 Another 30 cents in Florida went to vertical  
4 services. Well, if that much is going to those kind of  
5 services, it's very difficult to tell the average  
6 residential rate payer who consumers are on vertical  
7 service, a small number of long distance calls, that their  
8 bill is going to be equal.

9 But, again, this is information you can get from  
10 the companies --

11 CHAIRMAN JOHNSON: Okay.

12 MR. COOPER: -- as you consider that decision. It  
13 will vary from state to state, and depending on which  
14 scenario you use about which rates are going up and which  
15 rates are going down.

16 CHAIRMAN JOHNSON: Okay.

17 MR. COOPER: But that's the question to ask.

18 CHAIRMAN JOHNSON: Thank you.

19 CHAIRMAN KENNARD: Thank you.

20 Commissioner Ness.

21 COMMISSIONER NESS: Thank you, and thank you,  
22 panel, for your interesting observations.

23 We, in implementing the '96 Act, took a number of  
24 steps to enhance Lifeline and Link-Up, and one of those  
25 steps was to extend the benefits of Lifeline to all states

1 whether or not the state was having matching funding.

2 Can any of you -- does any of you have data to  
3 comment as to whether or not states have continued to fund  
4 into Lifeline where we have increased the amount of funding?

5 In other words, are the states continuing to fund  
6 the program? Has it been successful? Or have some states  
7 seen the federal subsidy as a means to cut back on what they  
8 were providing in terms of service?

9 Mr. Cooper, you look like you would like to answer  
10 that question.

11 MR. COOPER: I spend a lot of time on the road  
12 doing Universal Service. I'll give you one example which  
13 was very distressing to me from the State of Oklahoma, which  
14 had previously -- had passed the statute which said there  
15 should be a -- the state should match 3.50 and get the 3.50,  
16 so we had a \$7.00 discount.

17 When the federal discount went to \$5.20, if the  
18 state had continued the 3.50 match, then we would have  
19 gotten to the new 10.50.

20 Some people interpreted the statute to suggest  
21 that, no, what the legislature meant in Oklahoma was that we  
22 really want the discount of \$7.00, and what the state did  
23 was back down from 3.50 to "1.62 and a half cents or  
24 whatever the number was, to hit the ceiling at \$7.000.

25 That problem exists out there.